

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

ARDEN WENDELL PAWNEEELEGGINS,

Plaintiff,

vs.

JARED, KITCHEN BOSS AT MIKE DURFEE
STATE PRISON; IN HIS INDIVIDUAL AND
OFFICIAL CAPACITY,

Defendant.

4:19-CV-04033-RAL

ORDER DISMISSING CASE
WITHOUT PREJUDICE

Over twenty-one months ago, on December 5, 2019, this Court filed an Order Granting Motion to Proceed in Forma Pauperis and 1915A Screening, Doc. 25, which allowed certain claims of pro se Plaintiff Arden Wendell Pawneeleggins relating to his state confinement conditions and work to go forward. The order required the Clerk of Court to send blank summons forms and Marshal Service Form USM-285 to Pawneeleggins for him to complete for the named Defendant and return to the Clerk of Court to allow for service by the United States Marshals Service. Doc. 25 at 10. The order also cautioned that: "If the completed summons and USM-285 form are not submitted as directed, the complaint may be dismissed." Doc. 25 at 10.

The Clerk of Court mailed to Pawneeleggins at Mike Durfee State Prison on December 5, 2019, a letter enclosing multiple copies of a summons form and USM-285 form for Pawneeleggins to supply the address of named Defendant to facilitate service on the Defendant. Doc. 26.

Pawneeleggins did not return those completed forms to the Clerk of Court over the next thirteen months.

On February 24, 2020, Pawneeleggins filed a brief note advising that he was being released from state prison and would have a new mailing address in Brandon, South Dakota. Thus, on January 27, 2021, this Court entered an Order requiring the Clerk of Court mail to Pawneeleggins' last known address in Brandon, South Dakota, the summons forms and USM-285 forms for Pawneeleggins to complete and return. Pawneeleggins completed and return those forms to the Clerk of Court. However, the United States Marshals Service was unable to serve "Jared kitchen boss at Mike Durfee prison." On March 10, 2021, the Clerk of Court notified Pawneeleggins that better information was needed because "Jared kitchen boss" was no longer employed at the prison. Docs. 31, 32. Pawneeleggins has not responded in over nine months since.

One June 29, 2021, this Court filed an Order for Information to use to serve Defendant or for Dismissing Case without prejudice. Doc. 33. That order gave Pawneeleggins "until July 20, 2021 to provide better information on the name and address of the person he is seeking to sue. If he does not do so, this Court may dismiss the case without prejudice to re-filing." Doc. 33 at 2. Pawneeleggins has filed nothing since.

Rule 4(m) of the Federal Rules of Civil Procedure authorize this Court to dismiss this action without prejudice because no defendant was served within 90 days after the complaint was filed and because this Court provided notice of the potential for such a dismissal. For good cause, it is

ORDERED that this case is dismissed without prejudice to re-filing.

DATED this 22nd day of September, 2021.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Roberto A. Lange", is written over a horizontal line.

ROBERTO A. LANGE
CHIEF JUDGE